

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

MATTHEW THOMPSON,

Plaintiff,

v.

CASE NO. 4:14-cv-465-RH-GRJ

B. SMITH, et al.,

Defendants.

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ORDER

This cause is before the Court on ECF No. 64, Plaintiff's Motion for Appointment of Counsel and Request for Production.

First, Plaintiff requests that the Court appoint counsel to represent him in this case. Plaintiff represents that because a trial date has been set for his case, the next phase of proceedings are beyond his ability to litigate his case. He also says he has made a good faith effort to obtain pro bono counsel.

A plaintiff in a civil case has no constitutional right to counsel. Moreover, the Court does not have authority pursuant to 28 U.S.C. § 1915 to require an attorney to represent an indigent litigant. See *Mallard v. The United States District Court for the S.D. Iowa*, 490 U.S. 296, 301–02

(1989). Only exceptional circumstances warrant appointment of counsel, such as where the legal issues are so novel or complex as to require the assistance of a trained practitioner. *Bass v. Perrin*, 170 F.3d 1320 (11th Cir. 1999); *Fowler v. Jones*, 899 F.2d 1088 (11th Cir. 1990).

There are currently no exceptional circumstances to merit the appointment of counsel in this case. Although a trial date has been set for Plaintiff's case, whether Plaintiff's case will actually go to trial is yet to be determined.¹ This case is currently in the discovery stage and dispositive motions have yet to be filed. The difficulties presented to the *pro se* Plaintiff at this stage of litigation are typical of those difficulties experienced by other *pro se* litigants in § 1983 actions. Plaintiff has asserted First and Eighth Amendment claims against Defendants, neither of which are so novel or complex as to warrant appointment of counsel in a civil case.

Second, Plaintiff requests the mental health records for all Defendants as part of discovery. He says he overheard from one of the Defendants that at least one of the Defendants suffers from voices in his

¹ On November 25, 2016, the Court issued an order setting the trial and the deadlines for discovery and summary-judgment motions. (ECF No. 56.) Pursuant to that order, the discovery deadline is April 28, 2017, the deadline to file a motion for summary judgment is May 19, 2017, and the trial—provided Plaintiff's case is not disposed of at the summary judgment stage—is set for the trial period that begins on July 17, 2017. (*Id.*)

head. (ECF No. 64-1.) Although it is unclear whether Plaintiff previously made this request in a request for production to Defendants, the Court nonetheless construes Plaintiff's request as a motion to compel.

A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if: (i) a deponent fails to answer a question asked under Rule 30 or 31; (ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a)(4); (iii) a party fails to answer an interrogatory submitted under Rule 33; or (iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

Fed. R. Civ. P. 37(a)(3)(B). Pursuant to N.D. Fla. Loc. R. 26.1(D), however, “[a] discovery motion must frame the dispute clearly and, if feasible, must, for each discovery request at issue: (1) quote the discovery request verbatim; (2) quote each objection specifically directed to the discovery request; and (3) set out the reasons why the discovery should be compelled.” Plaintiff has wholly failed to comply with these requirements. His motion is therefore due to be denied.

Accordingly, upon due consideration, it is **ORDERED**:

Plaintiff's Motion for Appointment of Counsel and Request for Production, ECF No. 64, is **DENIED**.

DONE AND ORDERED this 16th day of March, 2017.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge